

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
KANSAS CITY DIVISION

CERNER CORPORATION,

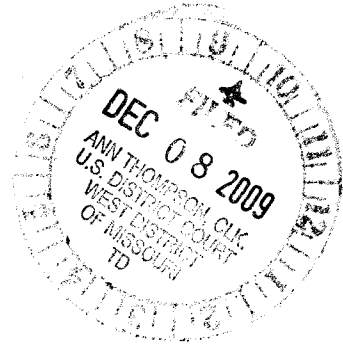
Plaintiff,

vs.

VISICU, INC.,

Defendant.

Case No. 04-1033-CV-W-GAF



VERDICT

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

**CERNER CORPORATION,**

**Plaintiff/Counter-defendant,**

**vs.**

**VISICU, INC.,**

**Defendant/Counterclaimant.**

**Case No. 04-1033-CV-W-GAF**

**VERDICT FORM**

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this Court as our verdicts in above-captioned case.

**VALIDITY**

(Refer to Instruction Nos. 20 through 25 for Question 1)

**Question 1: Has Cerner proven by clear and convincing evidence that the following claims are obvious?**

(An answer of Yes finds for Cerner; an answer of No finds for Visicu)

Claim 17 of the '656 Patent: Yes X No \_\_\_\_

Claim 20 of the '656 Patent: Yes X No \_\_\_\_

Claim 21 of the '656 Patent: Yes X No \_\_\_\_

Claim 22 of the '656 Patent: Yes X No \_\_\_\_

Claim 23 of the '656 Patent: Yes X No \_\_\_\_

Claim 24 of the '656 Patent: Yes X No \_\_\_\_

Claim 25 of the '656 Patent: Yes X No \_\_\_\_

Claim 26 of the '656 Patent: Yes X No \_\_\_\_

Claim 1 of the '708 Patent: Yes ☒ No ☐

Claim 22 of the '708 Patent: Yes ☒ No ☐

Claim 32 of the '708 Patent: Yes ☒ No ☐

Claim 63 of the '708 Patent: Yes ☒ No ☐

Claim 87 of the '708 Patent: Yes ☒ No ☐

### **INFRINGEMENT**

(Refer to Instruction Nos. 26 through 34 for Questions 2 through 5)

**Question 2: For the Our Lady of the Lake installation of the Cerner Virtual ICU system, has Visicu proven that it is more likely than not that Cerner has infringed the following claims?**

(An answer of Yes finds for Visicu; an answer of No finds for Cerner)

Claim 17 of the '656 Patent: Yes ☐ No ☒

Claim 1 of the '708 Patent: Yes ☐ No ☒

Claim 22 of the '708 Patent: Yes ☐ No ☒

**Question 3: For the Eastern Maine installation of the Cerner Virtual ICU system, has Visicu proven that it is more likely than not that Cerner has infringed the following claims?**

(An answer of Yes finds for Visicu; an answer of No finds for Cerner)

Claim 17 of the '656 Patent: Yes ☐ No ☒

Claim 1 of the '708 Patent: Yes ☐ No ☒

Claim 22 of the '708 Patent: Yes ☐ No ☒

**Question 4: For the Borgess installation of the Cerner Virtual ICU system, has Visicu proven that it is more likely than not that Cerner has infringed the following claims?**

(An answer of Yes finds for Visicu; an answer of No finds for Cerner)

Claim 17 of the '656 Patent: Yes \_\_\_ No X

Claim 1 of the '708 Patent: Yes \_\_\_ No X

Claim 22 of the '708 Patent: Yes \_\_\_ No X

**Question 5: For the Clarian installation of the Cerner Virtual ICU system, has Visicu proven that it is more likely than not that Cerner has infringed the following claims?**

(An answer of Yes finds for Visicu; an answer of No finds for Cerner)

Claim 17 of the '656 Patent: Yes \_\_\_ No X

Claim 1 of the '708 Patent: Yes \_\_\_ No X

Claim 22 of the '708 Patent: Yes \_\_\_ No X

### **WILLFULNESS**

(Refer to Instruction No. 35 for Question 6)

**Question 6: If you found that Cerner has infringed any claim of the '656 or '708 patents, has Visicu proven by clear and convincing evidence that Cerner's infringement was willful?**

Yes \_\_\_ No X

### **DAMAGES**

(Refer to Instruction Nos. 36 through 44 for Questions 7 through 9)

**Question 7: If you found that Cerner has infringed any claim of the '656 or '708 patent as to Our Lady of the Lake and/or Eastern Maine, what amount of damages, if any, do you award in the form of lost profits for lost sales to Our Lady of the Lake and/or Eastern Maine?**

\$ Ø N/A

**Question 8:** If you found that Cerner has infringed any claim of the '656 or '708 patent as to Our Lady of the Lake and/or Eastern Maine and did not award damages in the form of lost profits, what amount of damages do you award in the form of a reasonable royalty for Our Lady of the Lake and/or Eastern Maine?

\$ Ø N/A

**Question 9:** If you found that Cerner has infringed any claim of the '656 or '708 patent as to Borgess and/or Clarian, what amount of damages do you award in the form of a reasonable royalty for Borgess and/or Clarian?

\$ Ø N/A

  
FOREPERSON

DATED: December 7, 2009